



## ***Texas Department of Insurance***

### ***Division of Workers' Compensation***

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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## ***MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION***

### ***GENERAL INFORMATION***

#### **Requestor Name and Address**

HEALTHTRUST LLC  
P O BOX 890008  
HOUSTON TX 77289

#### **Carrier's Austin Representative Box**

Box Number 45

#### **Respondent Name**

STATE OFFICE OF RISK MANAGEMENT

#### **MFDR Date Received**

SEPTEMBER 30, 2011

#### **MFDR Tracking Number**

M4-12-0338-01

### ***REQUESTOR'S POSITION SUMMARY***

**Requestor's Position Summary:** "The carrier gave preauthorization for the services performed above based upon the accepted work related injury and the accepted diagnosis code. However, when the provider created the patient information sheet in its billing software program, 2 additional diagnosis codes were placed in the history of this patient and thus was shown on the medical HCFA. These codes came from the treating physician, however, they were not accepted by the carrier as being related to the work injury. When discussing with the claims adjuster the error that caused the claims to be denied, they stated that the only thing wrong was that the other two diagnosis codes did not need to be on the HCFA. Therefore, HealthTrust 'CORRECTED' its original billing and resubmitted the claims. Now the carrier is referring to these resubmissions as 'NEW' claims and that they fall outside of the 95 days window of opportunity to submit. HealthTrust argues that they are corrected billings and should be treated as reconsiderations. As that the only thing that was changed on the claim was the removal of two diagnosis codes that was not supposed to be on the claim originally."

**Amount in Dispute:** \$1,626.78

### ***RESPONDENT'S POSITION SUMMARY***

**Respondent's Position Summary:** "Upon notification of this dispute the Office performed a review of the medical billing received from Healthtrust for date of service 3/29/2011-5/27/2011 and determined that the denial of 291—Extent of Injury and 29—time limit for filing has expired will be maintained...The Office reviewed the preauthorization request and found the health care provider requested 6 sessions of Individual Psychotherapy x 6 weeks. The initial intake interview that was submitted to the utilization review agent indicates that the injured worker is being diagnosed with Adjustment disorder with mixed anxiety and depressed mood pain disorder with both psychological factors and a general medical condition. The Office has not accepted these conditions as being part of the compensable injury which is limited to Lumbar Spondylotic changes, L5-S1 Mod LT Foraminal narrowing, L4-5 Mod Bil foraminal narrowing, lumbar strains, radiculopathy and neuritis. Preauthorization was granted on 4/14/2011 for 6 sessions of individual psychotherapy as related to lumbar spine, it goes on to state that the psychological screening suggest moderated – severe levels of depressive and anxiety symptoms. She is a 'high risk' for abusing/misusing narcotic pain medications; however she is not prescribed narcotic pain medication at this time. Currently she is diagnosed with Adjustment Disorder with mixed anxious and depressed mood and a pain disorder. "

**Response Submitted by:** State Office of Risk Management, P. O. Box 13777, Austin, TX 78711

## **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 29, 2011	CPT Code 90801	\$741.42	\$0.00
April 18, 2011	CPT Code 90806	\$147.56	\$0.00
April 25, 2011	CPT Code 90806	\$147.56	\$0.00
May 4, 2011	CPT Code 90806	\$147.56	\$0.00
May 12, 2011	CPT Code 90806	\$147.56	\$0.00
May 18, 2011	CPT Code 90806	\$147.56	\$0.00
May 27, 2011	CPT Code 90806	\$147.56	\$0.00
TOTAL		\$1,626.78	\$0.00

## **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for health care providers to pursue a medical fee dispute.
2. 28 Texas Administrative Code §133.20 sets out the procedures for health care providers to submit workers' compensation medical bills for reimbursement.
3. 28 Texas Administrative Code §102.4 sets out the rules for Non-Commission Communications.
4. Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.
5. Texas Labor Code §408.0272 sets out the rules for certain exceptions for untimely submission of a claim by a health care provider.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated April 21, 2011

- 219 – BASED ON EXTENT OF INJURY (NOTE: TO BE USED FOR WORKERS' COMPENSATION ONLY)
- CARRIER HAS SPECIFICALLY DISPUTED LUMBAR DISC DISPLACEMENT AND LUMBOSACRAL NEURITIS.

Explanation of benefits dated May 13, 2011

- 219 – BASED ON EXTENT OF INJURY (NOTE: TO BE USED FOR WORKERS' COMPENSATION ONLY)
- 197 – PAYMENT DENIED/REDUCED FOR ABSENCE OF PRECERTIFICATION/PREAUTHORIZATION.
- CARRIER IS DISPUTING LUMBAR DIS DISPLACEMENT.
- NO PREAUTH ON FILE FOR PSYCH TREATMENT.
- CARRIER HAS SPECIFICALLY DISPUTED LUMBAR DISC DISPLACEMENT, LUMBAR INTERVERT DISC AND NEURITIS TO LUMBAR, THORACIC SPINE

Explanation of benefits dated May 25, 2011

- 219 – BASED ON EXTENT OF INJURY (NOTE: TO BE USED FOR WORKERS' COMPENSATION ONLY)
- DX CODE 722.10 HAS BEEN DISPUTED BY THE CARRIER AS UNRELATED

Explanation of benefits dated June 3, 2011

- 219 – BASED ON EXTENT OF INJURY (NOTE: TO BE USED FOR WORKERS' COMPENSATION ONLY)
- DX CODE 722.10 HAS BEEN DISPUTED BY THE CARRIER AS UNRELATED

Explanation of benefits dated June 14, 2011

- B22 – THIS PAYMENT IS ADJUSTED BASED ON THE DIAGNOSIS.
- 219 – BASED ON EXTENT OF INJURY (NOTE: TO BE USED FOR WORKERS' COMPENSATION ONLY)
- DX CODE 722.10 IS NOT ACCEPTED AS A W.C. INJURY. (LUMBAR DISC DISPLACEMENT).

Explanation of benefits dated June 24, 2011

- 219 – BASED ON EXTENT OF INJURY (NOTE: TO BE USED FOR WORKERS' COMPENSATION ONLY)

Explanation of benefits dated September 13, 2011

- 29 – THE TIME LIMIT FOR FILING HAS EXPIRED.
- THE PROVIDER HAS RESUBMITTED THIS BILL, BUT HAS REMOVED/CHANGED THE DIAGNOSIS CODE, CPT/HCPC CODE(S) AND/OR TOTAL BILL CHARGE AMOUNT, THUS MAKING IT A NEW BILL AND SUBJECT TO THE 95 DAY TIMELY FILING RULE.

## **Issues**

1. Has the extent of injury issue been resolved?
2. Are the requestors corrected bills considered new bills?
3. What is the timely filing deadline applicable to the medical bills for the services in dispute?
4. Did the requestor submit documentation to support the disputed bills were submitted timely in accordance with Texas Labor Code, Section §408.027 and 28 Texas Administrative Code §102.4?
5. Is the requestor entitled to reimbursement?

## **Findings**

1. A Benefit Review Conference was held on March 3, 2011 to mediate resolution of the disputed issue regarding if the compensable injury sustained on June 8, 2010 extends to include the lumbar MRI findings dated July 13, 2010, 1) multilevel lower lumbar spondylotic changes. No significant spinal canal stenosis changes at any level. 2) At L4-L5, moderate bilateral foraminal narrowing. 3) At L4-L5, moderate left foraminal narrowing. The parties were able to reach an agreement. The agreement determined that the compensable injury sustained on June 8, 2010 extends to include the lumbar MRI findings dated July 13, 2011 1) multilevel lower lumbar spondylotic changes. No significant spinal canal stenosis changes at any level. 2) At L4-L5, moderate bilateral foraminal narrowing. 3) At L4-L5, moderate left foraminal narrowing. The provider billed with the following ICD-9 code on the corrected CMS 1500 forms: 847.2 (Lumbar Sprain/Strain). The Division has determined that the extent of injury issue has been resolved therefore the disputed services will be reviewed in accordance with the applicable Division rules and fee guidelines.
2. 28 Texas Administrative Code §133.20(h) states, "Health care providers may correct and resubmit as a new bill an incomplete bill that has been returned by the insurance carrier." Neither party submitted copies of the initial bills as originally submitted to the carrier. However, the requestor submitted copies of the corrected bills submitted to the carrier. Based on this rule, the corrected bills are considered new bills. For that reason, the requestor in this dispute was required to submit the medical bill not later than 95 days after the date the disputed services were provided.
3. 28 Texas Administrative Code §133.20(b) states, in pertinent part, that, except as provided in Texas Labor Code §408.0272, "a health care provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date the services are provided." No documentation was found to support that any of the exceptions described in Texas Labor Code §408.0272 apply to the services in this dispute. For that reason, the requestor in this dispute was required to submit the medical bill not later than 95 days after the date the disputed services were provided.
4. Texas Labor Code §408.027(a) states, in pertinent part, that "Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment." 28 Texas Administrative Code §102.4(h) states that "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday." Review of the submitted documentation finds no information to support the dates the corrected bills were initially submitted to the respondent. Review of the submitted information finds that the requestor has not supported that the provider, filed for reimbursement within 95 days after the date of service. Consequently, documentation submitted by the requestor in this medical fee dispute does not sufficiently support that the medical bills were submitted timely.
5. The requestor failed to sufficiently support timely submission of the services in dispute. Therefore, in accordance with Texas Labor Code §408.027(a) provider's right to reimbursement is forfeited.

## **Conclusion**

For the reasons stated above, the Division finds that the requestor has forfeited its right to reimbursement. As a result, the amount ordered is \$0.00.

## **ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

_____ Signature	_____ Medical Fee Dispute Resolution Officer	December 3, 2012 Date
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### ***YOUR RIGHT TO REQUEST AN APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**